

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BOARD OF NURSING

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS

**CHRISTY L. BIERSTEKER, R.N.,**  
RESPONDENT.

ORDER DENYING PETITION  
Case No. LS 9909153 NUR

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On January 24, 2000, the board filed its Final Decision and Order in the above-captioned matter. The board found that Ms. Biersteker committed misconduct and unprofessional conduct as defined by Wis. Admin. Code § N 7.04(11) and is subject to discipline pursuant to § 441.07(1)(d), Stats., and ordered that Ms. Biersteker's right to renew her license as a licensed practical nurse in the state of Wisconsin be suspended for a period of at least two years, and that she undergo a psychological assessment prior to petitioning for renewal of her license.

On March 2, 2000, the board considered Ms. Biersteker's letter of February 8, 2000, which she characterizes as an appeal of the board's January 24, 2000, Final Decision and Order. Because an appeal of the board's order must be made to the Circuit Court for Outagamie County, the board considers Ms. Biersteker's letter as a Petition for Rehearing under sec. 227.49, Stats. That provision states in relevant part as follows:

**227.49 Petitions for rehearing in contested cases. (1)** A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

Ms. Biersteker does not claim to have discovered new evidence, but does claim that the board's Final decision and Order contains material errors of fact and of law. The evidence on which the board reached its Findings of Fact and Conclusions of Law is that evidence found in the record of this case, and Ms. Biersteker points to no specific evidence in the record which would either support her version of the facts or disprove the facts found by the board. Accordingly the board is unable to conclude that there are any material errors of fact in its findings. If not, then because the conclusions of law are clearly supported by those findings, the board is also unable to conclude that its Final decision and Order contains any material errors of law. Consequently, Ms. Biersteker's petition must be denied.

Dated this 10th day of March, 2000.

STATE OF WISCONSIN  
BOARD OF NURSING

by \_\_\_\_\_

Ann Brewer, R.N.

Chair